

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

DONALD HIGGS,

Plaintiff,

v.

MICHAEL MYERS, et al.,

Defendants.

Civil No. 15-2900 (BRM)(JSA)

MEMORANDUM and ORDER

Before the Court is the second motion for summary judgment filed by Defendants Michael Myers and Mark Green (“Defendants”), seeking judgment in their favor on Plaintiff Donald Higgs’s (“Plaintiff”) Section 1983 and New Jersey Civil Rights claims against them. (ECF No. 244.)

On June 6, 2023, this Court denied without prejudice Defendants’ first motion for summary judgment, explaining the Defendants failed to comply with Local Civil Rule 56.1(a). (ECF No. 243.) On June 7, 2023, Defendants filed a second motion for summary judgment that is identical to their first motion, except that Defendants have numbered the statement of facts within their brief in support of summary judgment and added one fact to their second motion. (*See* ECF No. 244 at 7.) Defendants’ second motion for summary judgment again fails to comply with New Jersey Local Civil Rule 56.1(a) for the same reasons stated in this Court’s June 6, 2023 Order. (*See* ECF No. 243.)

If Defendants choose to file a renewed motion for summary judgment, any motion must include a separate statement of material facts and that statement must include any specific material facts that Defendants assert are undisputed, and that Defendants rely upon in support of their motion for summary judgment. The Court notifies Defendants it is their obligation at the summary

judgment stage to provide facts to the Court. An indication that the Defendants' investigation report or interrogatory answers are attached as exhibits to Defendants' brief will not be considered by the Court as an undisputed fact. The Court will not search the exhibits to find undisputed facts to support Defendants' motion. Defendants are advised to review Federal Rule of Civil Procedure 56(c)(1)(A) and New Jersey Local Civil Rule 56.1(a) before submitting a renewed motion for summary judgment. Accordingly,

IT IS on this 8th day of June 2023,

ORDERED Defendants' motion for summary judgment (ECF No. 244) is **DENIED without prejudice** for failure to comply with New Jersey Local Civil Rule 56.1(a); and it is further

ORDERED that Defendants may file one final renewed motion for summary judgment within thirty (30) days of the date of this order that cures the above noted deficiencies; and it is further

ORDERED that the Clerk of the Court shall serve a copy of this Order on Petitioner by regular mail and upon Defendants electronically.

/s/**Brian R. Martinotti**

HON. BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE